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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/731,971      | 12/08/2000  | David M. Anderson    | 016754/0206         | 1748             |

22428 7590 08/12/2003

FOLEY AND LARDNER  
SUITE 500  
3000 K STREET NW  
WASHINGTON, DC 20007

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| EXAMINER |
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RAO, MANJUNATH N

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| ART UNIT | PAPER NUMBER |
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1652

DATE MAILED: 08/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Applicati n No.

09/731,971

Applicant(s)

ANDERSON ET AL.

Examiner

Manjunath N. Rao, Ph.D.

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--The MAILING DATE of this communication appears on the cover sheet with th correspondence address --

THE REPLY FILED 11 July 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 11 July 2003. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See attached.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: 56-65 and 69-72.Claim(s) rejected: 1,32 and 34-55, 66-68.Claim(s) withdrawn from consideration: 21-31 and 33.

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

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***Advisory Action***

Claims 1, 21-72 are still pending in this application. Claims 1, 32, 34-72 are now under consideration. Claims 21-31 and 33 remain withdrawn from consideration as being drawn to non-elected invention.

In response to the previous Office action, applicants have amended claims 1 and 32 by limiting the linkage cleaved by the enzyme to a "phosphatidylinositol" linkage which membrane-anchors a surface protein or a carbohydrate in a pathogen. While such an amendment overcomes the rejection of claims under 35 U.S.C. 102 as being anticipated by Beudeker et al., it is not persuasive to overcome the rejection of claims 1, 32, 34-72 (except claims 56-65 and 69-72) as obvious under 35 U.S.C. 103(a) over Beudeker et al., Kuppe et al. and Barbis et al. Applicants argue that there is no motivation to combine the references as suggested by the Examiner and therefore Examiner has not established a *prima facie* case of obviousness. Examiner respectfully disagrees with such an argument because, teachings of Barbis et al. clearly suggests the use of the enzyme to prevent the cells from getting infected with the feline virus, and this by itself would be a motivation for those skilled in the art to feed animals a composition comprising the enzyme provided by Kuppe et al. Applicant's argument that the enzyme composition provided by Kuppe et al. is a crude preparation unfit for use in a feed is misplaced, because it would be readily obvious to those skilled in the art to remove ammonium sulfate by a simple technique of dialysis and not to use the salt saturated enzyme in an feed. Therefore, contrary to applicant's arguments, the combination of the teachings of the above references renders the claims *prima facie* obvious to those skilled in the art.

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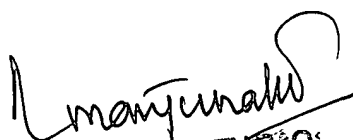
Applicant's argument also overcomes the rejection of claims 32, 56-65 and 69-72 as being anticipated over Fodge et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Manjunath N. Rao, Ph.D. whose telephone number is 703-306-5681. The examiner can normally be reached on 7.30 a.m. to 4.00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ponnathapura Achutamurthy can be reached on 703-308-3804. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-4242 for regular communications and 703-308-4242 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-0196.

Manjunath N. Rao  
September 16, 2003

  
MANJUNATH RAO  
PATENT EXAMINER